

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

DR. JOHN G. ESPOSITO, JR., on behalf
of himself and similarly situated persons,

Plaintiff.

V.

CHARLES M. BROWN, *et al.*,

Defendants.

No. C13-2125RSL

ORDER APPOINTING
ENGLEHART INVESTOR
GROUP AS LEAD PLAINTIFF
AND APPROVING JOHNSON &
WEAVER AS LEAD COUNSEL

This matter comes before the Court on competing motions for appointment of lead plaintiff and lead counsel in the above-captioned matter. Dkt. # 31 and Dkt. # 33. Having considered the memoranda, declarations, and exhibits submitted by the parties,¹ the Court finds as follows:

(1) The Englehart Investor Group (“EIG”) satisfies the requirements of 15 U.S.C. § 78u-4(a)(3)(B), is most capable of adequately representing the interests of absent class members, and is hereby appointed as lead plaintiff to prosecute the claims asserted in this case.

¹ This matter can be decided on the papers submitted. The parties' requests for oral argument are DENIED.

ORDER APPOINTING ENGLEHART
INVESTOR GROUP AS LEAD PLAINTIFF

(2) The members of EIG, as lead plaintiff, shall make every effort to confer and communicate with one another as necessary or required to make or coordinate strategic decisions in this action, and further shall make every effort to resolve any disagreement or differing opinions that may arise over any decision or direction required of lead plaintiff in this action. In the event that the members of EIG are unable to communicate and make a joint decision or cannot reach an agreement on a necessary or strategic decision in this action, group member Robert Englehart shall have final authority to make any decision required of lead plaintiff in this action.

(3) The Private Securities Litigation Reform Act (“PSLRA”) provides that once the lead plaintiff is selected, it “shall, subject to the approval of the court, select and retain counsel to represent the class.” 15 U.S.C. § 78u- 4(a)(3)(B)(v). EIG has selected the law firms of Johnson & Weaver, LLP, and Robbins Geller Rudman & Dowd, LLP, to serve as lead counsel for the class and Stritmatter Kessler Whelan to act as liaison counsel. Those selections are hereby approved.

(4) Lead and liaison counsel shall work together collaboratively. However, Johnson & Weaver shall have and assume the following responsibilities, duties, and powers:

- a. to coordinate the briefing and argument of any and all motions;
- b. to coordinate the conduct of any and all discovery proceedings and other pretrial proceedings;
- c. to coordinate the class certification process;
- d. to coordinate the selection of counsel to act as spokesperson at all pretrial conferences and hearings;
- e. to call meetings of counsel as they deem necessary and appropriate from time to time;
- f. to coordinate all settlement negotiations with counsel for defendants;

- g. to coordinate and direct the preparation for trial, the trial, and the post-trial proceedings in this matter;
- h. to delegate non-duplicative work assignments to selected counsel as may be advisable and required;
- i. to engage in communications with the Court and defendants' counsel on behalf of all plaintiffs; and
- j. to supervise all other matters concerning the prosecution or resolution of this action.

9 (5) No motion, discovery request, or other pretrial proceedings shall be initiated or
10 filed by any plaintiff without the approval of Johnson & Weaver, so as to prevent
11 duplicative pleadings or discovery by plaintiffs and to encourage a unified presentation of
12 plaintiffs' case. No settlement negotiations shall be conducted without the approval of
13 Johnson & Weaver.

(6) All future filings in this action shall bear the following caption:

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

1 For all of the foregoing reasons, EIG's "Motion for Appointment as Lead
2 Plaintiff and Approval of Selection of Counsel" (Dkt. # 33) is GRANTED. Dr.
3 Esposito's "Motion for Appointment of Lead Plaintiff and Lead and Liaison Counsel"
4 (Dkt. # 31) is DENIED.

5

6 Dated this 15th day of January, 2015.

7 
8

9

10 Robert S. Lasnik
11 United States District Judge
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26